



BRANDOLYN THOMAS PINKSTON
ADMINISTRATOR

THE STATE OF SOUTH CAROLINA

DEPARTMENT OF CONSUMER AFFAIRS

MAILING ADDRESS:
P.O. Box 5757
COLUMBIA, SC 29250-5757

STREET ADDRESS:
3600 FOREST DRIVE, SUITE 300
COLUMBIA, SC 29204-4006

(803) 734-4200
WATS (IN SC) 1-800-922-1594
WWW.STATE.SC.US/CONSUMER

WRITER'S DIRECT DIAL: (803) 734-4189
FAX: (803) 734-4287
E-MAIL: ELAM@DCA.STATE.SC.US

COMMISSIONERS
WARING S. HOWE, JR.
CHAIRMAN
CHARLESTON
LONNIE RANDOLPH, JR.
VICE CHAIRMAN
COLUMBIA
MARK HAMMOND
SECRETARY OF STATE
COLUMBIA
BARBARA B. LEAGUE
GREENVILLE
LOUIS MAYRANT, JR.
PINEVILLE
TONY MACOMSON
COWPENS
WAYNE SIMS
COLUMBIA
CHARLES TERRENI
COLUMBIA

October 29, 2004

Docketing Department
South Carolina Public Service Commission
P.O. Drawer 11649
Columbia, South Carolina 29211

Re: Intrastate Universal Service Fund
Docket No. 97-239-C

Docketing Department:

This letter is to serve as the Consumer Advocate's Brief in the current phase of this docket, which concerns the request of Sprint United Telephone for additional funding from the Universal Service Fund. As stated in the Consumer Advocate's closing statement at the hearing on this matter, Sprint-United's case in this phase of the USF proceeding suffers from the same legal infirmities as set forth in the Consumer Advocate's appeal of Commission Order Nos. 98-322, 2001-419, 2001-704, 2001-996 and 2001-1088 which is currently pending before the South Carolina Supreme Court, and the appeal of Commission Order Nos. 2003-215 and 2003-345 which are currently on appeal in the Richland County Court of Common Pleas. The legal arguments set forth in the Consumer Advocate's Brief before the Supreme Court are hereby incorporated into this Brief by reference. These include, but are not limited to, violations of S.C. Code Ann. § 58-9-280(E) regarding failure to properly allocate the costs associated with the local loop to all services; violation of 47 U.S.C. § 254(k) for failure to properly allocate the costs associated with the local loop to all services; and violations of FCC Separations requirements set forth at 47 C.F.R. Part 36.

Sincerely,

Elliott F. Elam, Jr.
Acting Consumer Advocate

cc: parties of record